

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:) Confirmation No.: 5132
Koji ABE , <i>et al.</i>)
Serial No. 10/564,852) Examiner: Laura S. Weiner
Filed: January 17, 2006) Group Art Unit: 1795
For: NON-AQUEOUS ELECTROLYTIC)
SOLUTION FOR LITHIUM)
SECONDARY BATTERY AND)
LITHIUM SECONDARY BATTERY)
USING THE SAME)

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE

In response to the Office Action mailed September 21, 2011, Applicants responds in detail in the following Remarks:

REMARKS

The Office Action of September 21, 2011 was received and carefully reviewed. Claims 13-15 and 18-19 are currently pending in the instant application, of which, claims 16 and 17 are withdrawn. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claims 13-15 and 18-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 and 8 of co-pending Application No. 10/584,266 in view of Koshina. Although a Terminal Disclaimer relating to Application No. 10/584,266 was submitted on July 28, 2011, it has been refused/disapproved. Based on the arguments provided below, Applicant no longer believes a Terminal Disclaimer is necessary, and requests withdrawal of this rejection.

As provided in M.P.E.P. §804 (I)(B)(1), if a provisional nonstatutory obviousness-type double patenting rejection is the only remaining rejection in the earlier filed application, and the later filed application is rejectable on other grounds, the Examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. Applicant notes that Application No. 10/584,266 remains rejected under Section 103, and the instant application is the earlier filed application. As a result, in accordance with M.P.E.P. §804 (I)(B)(1), Applicant requests that the Examiner withdraw the obviousness-type double patenting rejection and permit this application to proceed to allowance.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account

No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned at (202) 585-8207.

Respectfully submitted,

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